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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
CENTRAL DIVISION

LL&L INNOVATIONS LLC, a Utah
limited liability company, and LOWDOWN
DISTRIBUTION, INC., a California ~
corporation,,

Plaintiffs,

v.

JERRY LEIGH OF CALIFORNIA, INC.,
a California corporation; KOHL'S
CORPORATION, a Wisconsin
corporation; JC PENNEY COMPANY,
INC., a Texas corporation; RUSTY
NORTH AMERICA, LLC, a California
limited liability company; HOT TOPIC
MERCHANDISING, INC, a California
corporation, and SUN COAST
MERCHANDISE CORPORATION d/b/a
SUNSCOPE, a California corporation,

Defendants.

Civil Action No. 2:10-cv-00829-TC

**NOTICE OF FILING OF FIRST
AMENDED COMPLAINT PURSUANT
TO RULE 15(a)(1)(B)**

Honorable Chief Judge Tena Campbell

Plaintiffs LL&L Innovations, LLC and Lowdown Distribution, Inc. (collectively “Plaintiffs”), by and through their undersigned counsel of record, hereby provide Notice that Plaintiffs have filed a First Amended Complaint pursuant Federal Rule of Civil Procedure 15(a)(1)(B).

Plaintiffs filed their Complaint in the action on August 20, 2010. (Dkt. No. 2.) On September 13, 2010, defendants Jerry Leigh of California, Inc., Kohl’s Corporation, J. C. Penney Company, Inc., Rusty Licensing, Inc., Hot Topic Merchandising, Inc., and Sun Coast Merchandise Corporation (collectively, “Defendants”), filed their “Motion to Dismiss Plaintiffs’ Complaint Pursuant to FRCP 12(b)(6)” (the “Motion to Dismiss”). (Dkt. No. 32.) The Motion to Dismiss, which was filed without first conferring with counsel for Plaintiffs, alleges various perceived deficiencies in the Complaint. Plaintiffs argue that the Complaint complies with the pleading requirements of Federal Rule of Civil Procedure 8 and that Defendants are on notice of the causes of action pleaded in the Complaint sufficient to respond thereto. Notwithstanding the foregoing, in order to avoid wasting the time and resources of both the Court and the parties, Plaintiffs are filing concurrently herewith a First Amended Complaint, as is their right under Rule 15(a)(1)(B),¹ that remedies any possible alleged defect in the Complaint raised by Defendants’ Motion to Dismiss. Specifically, the First Amended Complaint contains specific allegations of direct infringement by Defendants’ consumers of their Accused Products, and that Defendants intended and continue to intend to contribute to and to induce the direct infringement

¹ Rule 15(a)(1)(B) allows a plaintiff to file an amended complaint “once as a matter of course” if filed within “21 days after service of a motion under Rule 12(b)[.]” The First Amended Complaint is being filed less than 21 days after Defendants filed their Motion to Dismiss.

of the '192 patent by their consumers of the Accused Products.² Because the First Amended Complaint addresses each of the alleged deficiencies in the Complaint raised by Defendants' Motion to Dismiss, that motion is rendered moot and should be withdrawn.

DATED this 21st day of September, 2010.

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By /s/ Chad E. Nydegger
CHARLES L. ROBERTS
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Attorneys for Plaintiff
LL&L INNOVATIONS LLC and
LOWDOWN DISTRIBUTION, INC.

² Plaintiffs have not alleged infringement under 35 U.S.C. § 271(f) in the First Amended Complaint, but expressly reserve the right to further amend the Complaint to include claims for infringement under § 271(f) if, during discovery, Plaintiffs uncover facts supporting such a claim.